

**REMARKS**

Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Claims 1-6, 21, 22, 26, 27, 29, and 31-36 are pending in this application. Claim 24 is cancelled without prejudice or disclaimer. Claims 1, 4, 29, 31, and 36 are the independent claims.

**Examiner Interview**

Applicants appreciate the courtesies extended to Applicants' representative during a telephone interview conducted on February 26, 2008. Applicants note that the application was recently reassigned to the present Examiner. The substance of the interview will be discussed below with respect to the art grounds of rejections.

**Claim Rejections – 35 U.S.C. § 103:**

Claims 1, 3, 4, 6, 21, 23 and 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Helander (US 6,728,237) in view of Longoni (US 2002/0052206), and further in view of Al-Housami (US 2001/0016497)<sup>1</sup>. Applicants respectfully traverse this rejection as follows.

During the interview, Applicants' representative asserted that the applied references of Helander in view of Longoni and in further view of Al-Housami fail to render claim 4 obvious. More specifically, Applicants representative argued that the references fail to disclose or suggest "reporting the cell load information at a first reporting periodicity, if the cell is determined to be in a low cell loading state, and reporting the cell load information at a second reporting periodicity more frequent than the first reporting periodicity, if the cell is determined to be in a high cell loading state," as recited in claim 4. However, the Examiner could not agree or disagree with the presented arguments because the Examiner was unfamiliar with the prosecution history and the references, because this application was recently transferred to him. Thus, a short discussion of the references and the previous Office Action is presented as follows.

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<sup>1</sup> To be thorough, further expedite prosecution, and for the sake of clarity, Applicants provide discussions of each of the references separately, however, Applicants are not attacking these references individually, but instead are arguing that the references, even taken in combination, fail to render the claimed invention obvious because all the features of claim 4 are not found in the cited art.

Helander discloses that a detecting means may be provided to detect a change in the local load status. If a change in the local load status is detected, the sending of load status information to a message composing means is activated (column 12, lines 24-27). The Examiner recognizes that Helander fails to disclose reporting at “a second reporting periodicity more frequent than the first reporting periodicity.”

The Examiner relies upon Longoni to cure this deficiency. However, Longoni merely recites “the load information can be transmitted, when the first RNC 3-1 determines a considerable change of the load of the controlled radio cell 13, e.g., when a critical threshold is reached” (paragraph 48). During the interview, Applicants’ representative argued that Longoni only discloses one threshold and one periodicity, wherein the load information is or is not transmitted based upon the single threshold. The previous Examiner argued on page 16 of the Office Action that Longoni’s state of not sending load status information reads upon one of the periodicities.

In light of this argument and the interview, Applicants have amended claim 4 to recite reporting “the cell load information at a first non-zero reporting periodicity, if the cell is determined to be in a low cell loading state, and...at a second reporting periodicity more frequent than the first non-zero reporting periodicity, if the cell is determined to be in a high cell loading state.” This amendment specifically addresses the previous Examiner’s statements, and more clearly distinguishes the independent claims from the cited art by indicating that the different periodicities have non-zero values. Helander in view of Longoni does not disclose or suggest at least this feature.

Al-Housami merely recites “a dynamic limit is set which varies in accordance with the proportion of high rate terminals which are active in a particular communications cell” (paragraph 19). With respect to claim 4, Al-Housami fails to cure the deficiencies of Helander in view of Longoni, as discussed above.

Additionally, the cited art states that cell load information is reported by a network element only in response to a request from another network element. For example, Longoni states “the second RNC 3-2 may request to transmit the load information” (paragraph 48). Applicants’ representative argued that the reporting steps of claim 4 are performed by a network element **without** request, which is a patentable difference from the cited art. As such, amended claim 4 requires that reporting cell load information is performed “by the network element” **without** request from another network element, which is not disclosed by the cited art.

For at least the foregoing reasons, Helander, Longoni, or Al-Housami, taken alone or in combination, cannot render independent claim 4 obvious to one skilled in the art. Independent claim 1 has been amended in a similar fashion and is patentable for at least reasons somewhat similar to those set forth with regard to claim 4. Claims 3, 6, 21, and 26, are dependent upon either independent claims 1 or 4, and are patentable at least for the reasons stated above with respect to those independent claims.

**Claims 2 and 5**

Claims 2 and 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Helander in view of Longoni and Al-Housami, as applied to claims 1 and 4 above, and further in view of US 2002/0022487 (Ahn). Applicants respectfully traverse this rejection as follows.

However, Ahn fails to cure the noted deficiencies of Helander, Longoni, and Al-Housami as discussed above with respect to claims 1 and 4. Claims 2 and 5 are dependent upon either independent claim 1 or 4, and are patentable for at least the reasons stated above with respect to those independent claims.

**Claims 22, 27, 31, 32 and 35**

Claims 22, 27, 31, 32 and 35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Helander in view of Longoni and Al-Housami, and further in view of US 6,223,031 (Naslund). Applicants respectfully traverse this rejection as follows.

With respect to claims 22 and 27, Naslund fails to cure the noted deficiencies of Helander, Longoni, and Al-Housami as discussed above with respect to claims 1 and 4. Claims 22 and 27 are dependent upon either independent claim 1 or 4, and are patentable for at least the reasons stated above with respect to those independent claims.

With respect to independent claim 31, Applicants have amended claim 31 to recite reporting “cell load measurement information at one of two different non-zero periodic intervals based on the comparison.” Naslund fails to disclose such a feature, and does not cure the deficiencies of Helander, Longoni, and Al-Housami as discussed above. As such, independent claim 31 and subsequent dependent claims 32 and 35 are patentable for at least reasons similar to those described above with respect to claims 1 and 4.

**Claims 24 and 29**

Claims 24 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Helander in view of Longoni. Claim 24 is cancelled, which renders its rejection moot. Applicants respectfully traverse this rejection as follows.

Applicants have amended claim 29 to recite “reporting, by the network element, the cell load information at a first non-zero reporting periodicity, if the cell is determined to be in a low cell loading state, and...a second reporting periodicity more frequent than the first non-zero reporting periodicity, if the cell is determined to be in a high cell loading state.” Claim 29 is patentable for at least reasons similar to those described above with respect to claim 4.

### **Claims 33 and 34**

Claims 33 and 34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Helander in view of Longoni and Al-Housami, and Naslund as applied to claim 31 above, and further in view of US 5,794,140 (Sawyer). Applicants respectfully traverse this rejection as follows.

Sawyer merely discloses a method for offering cellular subscribers access to an unused network cell in the event that all other cells have reached capacity. As such, Sawyer fails to cure the deficiencies of Helander, Longoni, Al-Housami, and Naslund as discussed above with respect to independent claim 31. Claims 33 and 34 are patentable at least by virtue of dependency on claim 31.

### **Claim 36**

Claim 36 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Helander in view of Longoni, and further in view of Naslund. Applicants respectfully traverse this rejection as follows.

Applicants have amended claim 36 to include “reporting, by the network element, cell load measurement information at one of two different non-zero periodic intervals based on the comparison.” As discussed above, Naslund does not disclose such a feature, and Applicants submit that claim 36 is patentable for at least reasons somewhat similar to those set forth above in the arguments for claim 31.

**CONCLUSION**

In view of the above, Applicant earnestly solicits reconsideration and allowance of all of the pending claims.

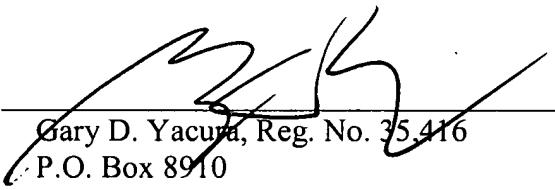
Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a two (2) month extension of time for filing a reply to the Office Action and submit the required extension fee herewith.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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